

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOHNSON COUNTY GAS COMPANY, INC.)	
AND BUD RIFE, INDIVIDUALLY AND AS SOLE)	
OFFICER OF THE UTILITY)	
_____)	CASE NO.
)	2011-00184
ALLEGED FAILURE TO COMPLY WITH)	
COMMISSION ORDERS)	

ORDER

Johnson County Gas Company, Inc. ("Johnson County") is a Kentucky corporation that owns and operates facilities that distribute natural gas to the public for compensation in Johnson County, Kentucky. As such, it is a utility subject to the Commission's jurisdiction. KRS 278.010(3)(b).

On September 17, 2010, the Commission issued an Order in Case No. 2010-00010¹ directing Johnson County Gas to file a Gas Cost Adjustment ("GCA") application no later than December 1, 2010 for an effective date of January 1, 2011. The Commission further directed Johnson County to include in that application the identity of all of its suppliers, its suppliers' rates, the balance owed to any suppliers including any imbalances, and its actual adjustment calculations. Upon examination, the Commission finds that Johnson County filed its GCA application on January 3,

¹ Case No. 2010-00010, Purchased Gas Adjustment Filing of Johnson County Gas Company (Ky. PSC Sept. 17, 2010).

2011, which was docketed as Case No. 2011-00004,² and that the application did not contain the required information regarding Johnson County's suppliers.

On January 13, 2011, in Case No. 2011-00004, the Commission issued an Order directing Johnson County to respond to information requests attached thereto on or before January 26, 2011. Upon review, the Commission finds that Johnson County has not filed the required responses.

Johnson County's 2009 Annual Report filed with the Commission lists Bud Rife as the 100 percent owner/President of Johnson County.³ Johnson County's 2010 Annual Report filed with the Kentucky Secretary of State and dated June 30, 2010 lists Bud Rife as the President and sole director of Johnson County.⁴

KRS 278.990(1) provides:

Any officer, agent, or employee of a utility, as defined in KRS 278.010, and any other person who willfully violates any of the provisions of this chapter or any regulation promulgated pursuant to this chapter, or fails to obey any order of the commission from which all rights of appeal have been exhausted, or who procures, aids, or abets a violation by any utility, shall be subject to either a civil penalty to be assessed by the commission not to exceed two thousand five hundred dollars (\$2,500) for each offense or a criminal penalty of imprisonment for not more than six (6) months, or both. If any utility willfully violates any of the provisions of this chapter or any regulation promulgated pursuant to this chapter, or does any act therein prohibited, or fails to perform any duty imposed upon it under those sections for which no penalty has been provided by law, or fails to obey any order of the commission from which all rights of appeal have been exhausted, the utility shall be subject to a civil penalty to be assessed by the commission for each offense not less than twenty-five dollars (\$25) nor more than two thousand five hundred dollars (\$2,500). Each act, omission,

² Case No. 2011-00004, Purchased Gas Adjustment Filing of Johnson County Gas Company.

³ Annual Report of Johnson County to the Public Service Commission of Kentucky for the Year Ending December 31, 2009 at 1.

⁴ [http://apps.sos.ky.gov/ImageWebViewer/\(S\(pvyfkbr3fadcyh2xmohzpdij\)\)/OBDBDisplayImage.aspx?id=4442622](http://apps.sos.ky.gov/ImageWebViewer/(S(pvyfkbr3fadcyh2xmohzpdij))/OBDBDisplayImage.aspx?id=4442622)

or failure by an officer, agent, or other person acting for or employed by a utility and acting within the scope of his employment shall be deemed to be the act, omission, or failure of the utility.

(Emphasis Added).

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. The Commission's Order in Case No. 2010-00010, dated September 17, 2010, which is appended to this Order as Appendix A, is a final order from which all rights of appeal have been exhausted.

2. The Commission's Order in Case No. 2011-00004, dated January 13, 2011, which is appended to this Order as Appendix B, is a final order from which all rights of appeal have been exhausted.

3. A *prima facie* showing has been made that Johnson County has willfully violated the Commission's Order of September 17, 2010 in Case No. 2010-00010 by its failure to file its GCA application by December 1, 2010 and by its failure to include in its GCA application certain required information.

4. A *prima facie* showing has been made that Johnson County has willfully violated the Commission's Order of January 13, 2011 in Case No. 2011-00004 by its failure to respond to certain information requests attached to that Order.

5. A *prima facie* showing has been made that Bud Rife aided and abetted Johnson County in its failure to comply with the Commission's Order of September 17, 2010 in Case No. 2010-00010 and its failure to comply to the Commission's Order of January 13, 2011 in Case No. 2011-00004.

IT IS THEREFORE ORDERED that:

1. Johnson County shall appear before the Commission on July 6, 2011, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of presenting evidence concerning its alleged failure to comply with the Commission's Order of September 17, 2010 in Case No. 2010-00010 and the Commission's Order of January 13, 2011 in Case No. 2011-00004 and of showing cause, if any it can, why it should not be subject to the penalties of KRS 278.990(1) for its alleged failures to comply.

2. Bud Rife, in his individual capacity and as President and sole director of Johnson County, shall appear before the Commission on July 6, 2011, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of presenting evidence concerning the allegations that he aided and abetted Johnson County in its alleged failure to comply with the Commission's Order of September 17, 2010 in Case No. 2010-00010 and the Commission's Order of January 13, 2011 in Case No. 2011-00004 and of showing cause, if any he can, why he should not be subject to the penalties of KRS 278.990(1) for his alleged actions.

3. Pursuant to KRS 278.360, the record of the formal hearing in this matter shall be by videotape.

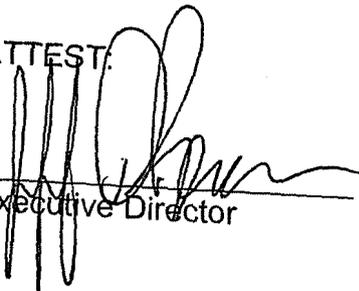
4. Within 20 days of the date of this Order, Johnson County shall submit to the Commission a written response to the allegations contained herein.

5. Within 20 days of the date of this Order, Bud Rife shall submit to the Commission a written response to the allegations contained herein that he aided and abetted Johnson County in its failures alleged herein.

By the Commission

ENTERED 
JUN 10 2011
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2011-00184

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2011-00184 DATED **JUN 10 2011**

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PURCHASED GAS ADJUSTMENT)
FILING OF JOHNSON COUNTY GAS) CASE NO. 2010-00010
COMPANY)

ORDER

On September 1, 1999, in Case No. 1999-00155, the Commission approved rates for Johnson County Gas Company, Inc. ("Johnson County") and provided for their further adjustment in accordance with Johnson County's Gas Cost Adjustment ("GCA") clause.¹

On January 7, 2010, Johnson County filed its proposed GCA and requested a waiver of the 30-day notice period so that its proposed rates could be effective January 4, 2010. On January 15, 2010, Commission Staff issued an information request to Johnson County, pursuant to 807 KAR 5:001, to obtain additional information concerning Johnson County's suppliers, its suppliers' rates, and its actual adjustment calculation. Johnson County failed to respond to this information request. On February 5, 2010, the Commission issued its Order denying Johnson County's waiver of the 30-day notice period, requiring Johnson County to respond to the Commission Staff information request of January 15, 2010, and suspending Johnson County's proposed rates up to and including July 5, 2010. On February 24, 2010, Johnson County

¹ Case No. 1999-00155, Application of Johnson County Gas Company, Inc. for a Rate Adjustment Pursuant to the Alternative Rate Filing Procedure for Small Utilities (Ky. PSC Sept. 1, 1999).

provided its response to the Commission Staff's first request. On March 11, 2010, Commission Staff issued a second request for information to which Johnson County did not respond. On June 22, 2010, the Commission issued an Order requiring Johnson County to file its response to Commission Staff's second request by June 30, 2010. As of the date of this Order, Johnson County has not responded to the information request and has not requested an extension of time. Notwithstanding Johnson County's failure to provide the requested supplemental information, the Commission finds that the documents supplied to date provide the Commission with sufficient information to determine that Johnson County's proposed rates will result in a decrease to Johnson County's customers, are reasonable and should be approved for service on and after the date of this Order. The Commission further finds that Johnson County should file its next GCA in accordance with its tariff and include in such filing all the information requested in this proceeding, including, but not limited to, the identification of Johnson County's suppliers, the suppliers' rates, and the actual adjustment calculation.

IT IS HEREBY ORDERED that:

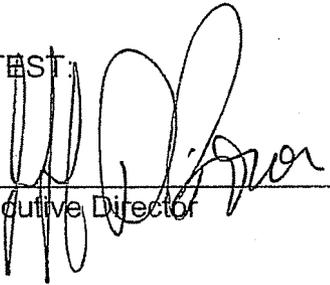
1. The rates in the Appendix to this Order are approved for billing for service rendered on and after the date of this Order.
2. Within 20 days of the date of this Order, Johnson County shall file its revised tariffs with this Commission setting out the rates authorized herein and reflecting that they were approved pursuant to this Order.
3. Johnson County shall timely file its next GCA application no later than December 1, 2010 for an effective date of January 1, 2011 and shall include with its

application the identification of all of its suppliers, its suppliers' rates, the balance owed to any suppliers including any imbalances, and its actual adjustment calculations.

By the Commission

ENTERED *M*
SEP 17 2010
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2010-00010

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2010-00010 DATED SEP 17 2010

The following rates and charges are prescribed for the customers in the area served by Johnson County Gas Company, Inc. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Commission prior to the effective date of this Order.

RATES:

Residential

<u>Monthly</u>	<u>Base Rate</u>	<u>Gas Cost Recovery Rate</u>	<u>Total Rate</u>
Minimum Bill 0-1 Mcf	\$6.9542	\$6.6899	\$13.6441
All additional Mcf	\$5.9542	\$6.6899	\$12.6441

Commercial

<u>Monthly</u>			
All Mcf	\$6.3042	\$6.6899	\$12.9941

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2011-00184 DATED **JUN 10 2011**

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PURCHASED GAS ADJUSTMENT FILING OF) CASE NO.
JOHNSON COUNTY GAS COMPANY) 2011-00004

O R D E R

On January 3, 2011, Johnson County Gas Company ("Johnson County") filed an application to adjust its Gas Cost Adjustment ("GCA") rate. Johnson County requested that the Commission waive the 30-day notification period and allow the new rate to become effective on January 1, 2011. In the Commission's Order for Case No. 2010-00010, Johnson County was ordered to provide an identification of its suppliers with this application. Schedule II of Johnson County's application identifies Bradco and Equitable Energy as suppliers, but the bulk of its gas supply is priced at the average of the NYMEX settlement prices for February, March, and April 2010, and no supplier is identified.

The Commission finds that Johnson County's requested waiver of the 30-day notification period should be denied. We also find that the investigation of Johnson County's gas supply and cost cannot be completed prior to 30 days from the filing date. Based on the January 3, 2011 filing date, the earliest possible effective date would be February 2, 2011. Therefore, the Commission will suspend the effective date of the proposed rates for five months from February 2, 2011.

IT IS THEREFORE ORDERED that:

1. Johnson County's proposed rates are suspended for five months from February 2, 2011 up to and including July 1, 2011.

2. a. The information requested in the Appendix attached hereto and incorporated herein is due on or before January 26, 2011. Responses to requests for information shall be appropriately bound, tabbed and indexed and shall include the name of the witness responsible for responding to the questions related to the information provided, with copies to all parties of record and ten copies to the Commission.

b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. Any party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

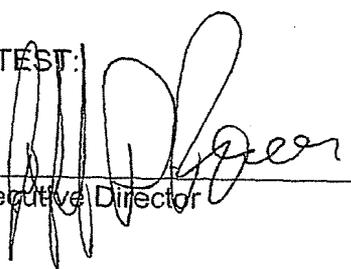
d. For any request to which a party fails or refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

3. Nothing contained herein shall prevent the Commission from issuing an Order prior to the end of the suspension period.

By the Commission

ENTERED
JAN 13 2011
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2011-00004 DATED JAN 13 2011

COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION
TO JOHNSON COUNTY GAS COMPANY

1. Provide copies of all supplier invoices for each month of 2009 and 2010.
2. Provide proof of payment for each supplier invoice for each month of 2009 and 2010.
3. Identify the source of supply for the 10,720 Mcf shown on Schedule II of the application.
4. Explain why Constellation Energy is no longer listed as a supplier.
5. The October 19, 2010 invoice from Bradco Oil Company shows an arrearage from past invoices of \$31,165.50. Explain how this arrearage occurred and when Johnson County plans to pay this amount.
6. Provide Mcf sales and Mcf purchases, by supplier, for each month of 2009 and 2010.
7. Johnson County's 2009 Annual Report shows "TECO Pool" as one of its three suppliers, with the associated gas cost of \$64,371. Was this amount paid? If yes, to whom was this amount was paid?

Bud Rife
President
Johnson County Gas Company, Inc.
P. O. Box 339
Harold, KY 41635